

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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REIGN BLUE CORP.,

Plaintiff,

-against-

MEMORANDUM AND ORDER
13-CV-3915 (JS) (SIL)

GATEWAY COMMERCIAL FINANCE, LLC,

Defendants.

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APPEARANCES

For Plaintiffs: No Appearances

For Defendants: Michael Ullman, Esq.
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SEYBERT, District Judge:

Pending before the Court is Magistrate Judge Steven I. Locke's Report and Recommendation ("R&R"), recommending that this Court grant Gateway Commercial Finance LLC ("Gateway") \$1,137,532.26 in damages following Reign Blue Corp.'s ("Reign Blue") default. (Docket Entry 80.) For the following reasons, the Court ADOPTS Judge Locke's R&R in its entirety.

BACKGROUND

Reign Blue commenced this action on July 12, 2013 against Gateway and Ross Stores, Inc ("Ross"). Reign Blue sought an injunction terminating the UCC-1 Financing Statement filed by

Gateway on June 13, 2013. Reign Blue also sought to direct Ross to release monies it was withholding due to the UCC-1 filing. Gateway asserted multiple counterclaims against Reign Blue. (See Defs.' Br., Docket Entry 22). Gateway claimed Reign Blue is the successor entity to the company SB Max Global Corp. ("SB Max"), which Gateway provided with financing for certain purchase orders delivered to Ross Stores, Inc. Gateway further asserted that Reign Blue took over these purchase orders after SB Max stopped communicating with Gateway. (See Magistrate Judge Wall's R&R, Docket Entry 32, at 9.) On September 19, 2013, Ross was voluntarily dismissed from the case, (Docket Entry 38), and Ross deposited \$237,931.40 (the "Escrow Funds") into an attorney escrow account maintained by Gateway's counsel. (See R&R at 4.)

On November 28, 2014, Reign Blue's counsel moved to withdraw, (Docket Entry 62), and on December 11, 2014, Gateway moved to dismiss and for the entry of a default judgment. (Docket Entry 68.) The Court held a hearing on the parties' motions on December 17, 2014. (See December 17, 2014 Minute Entry, Docket Entry 71.) The Court granted Gateway's motion to dismiss the Complaint on the record and entered a default judgment against Reign Blue on Gateway's counterclaims. (See December 17, 2014 Minute Entry.) The Court also referred the matter to Magistrate Judge Steven I. Locke for a report and recommendation addressing

the issue of damages with respect to Gateway's counterclaims. (See December 17, 2014 Minute Entry.)

On August 6, 2015, Judge Locke issued his R&R. (Docket Entry 80.) The R&R recommends that the Court award Gateway \$1,137,532.26 in damages and that Gateway's counsel be authorized to release the Escrow Funds to Gateway in partial satisfaction of the judgment. (R&R at 7).

DISCUSSION

In reviewing an R&R, a district court "may accept, reject, or modify, in whole or in part, the findings and recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). If no timely objections have been made, the "court need only satisfy itself that there is no clear error on the face of the record." Urena v. New York, 160 F. Supp. 2d 606, 609-10 (S.D.N.Y. 2001) (internal quotation marks and citation omitted).

Objections were due within fourteen days of service of the R&R. The time for filing objections has expired, and no party has objected. Accordingly, all objections are hereby deemed to have been waived.

Upon careful review and consideration, the Court finds Judge Locke's R&R to be comprehensive, well-reasoned, and free of clear error, and it ADOPTS the R&R in its entirety.

CONCLUSION

Judge Locke's R&R (Docket Entry 80) is ADOPTED in its entirety. The Court is directed to enter judgment in favor of Gateway and against Reign Blue in the amount of \$1,137,532.26. In addition, Gateway's counsel is hereby authorized to release the Escrow Funds to Gateway in partial satisfaction of the judgment. The Clerk of the Court is directed to mark this matter CLOSED. Counsel for Gateway is directed to serve a copy of this Memorandum and Order on Reign Blue at its last known address.

SO ORDERED.

/s/ JOANNA SEYBERT
Joanna Seybert, U.S.D.J.

Dated: September 17, 2015
Central Islip, New York